FEB 29 1924
WM. R. STANSBURY
CLERK

Number 219.

IN THE

SUPREME COURT

OF THE

UNITED STATES

COMPANY, APPELLANT.

October Term, 1923.

CHICAGO, BURLINGTON & QUINCY RAILROAD

V.

W. H. OSBORNE, JR., AS TAX COMMISSIONER OF THE STATE OF NEBRASKA, GILBERT E. HAASE, AS COUNTY TREASURER, BUFFALO COUNTY, NEBRASKA, ET. AL., APPELLEES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR DISTRICT OF NEBRASKA

BRIEF OF APPELLEES.

O. S. SPILLMAN, Attorney General of Nebraska.
GEO. W. AYRES, Asst. Atty. Gen'l of Nebraska.
HUGH LAMASTER, Asst. Atty. Gen'l of Nebraska.
Solicitors for Appellees.

WEKESSER-BRINKMAN CO., Law Briefs, Lincoln, Neb.

SUBJECT INDEX.

	Page
Statement	1
Order Denying Injunction	2
Brief of Argument	4
Method of Taxation of Railroad Properties in Nebraska	4
Summary of Laws Relating to Taxation of Railroads	12
Valuation of Property for Taxation a Judicial Function.	13
The Action of the Board in Assessing Railroad Property is a Final Order	16
Valuation, not Levy, Reviewable	17
The Remedy by Writ of Error is Plain, Adequate and Complete	20
The Jurisdiction of the Federal Court	29
Section 266 of the Judicial Code	46
Authorities of Appellant Discussed	47
Conclusion	52
Appendix	53

Constitutions, Federal Statutes, State Statutes Cited.

Constitution of Nebraska, Art. 1, Sec. 24	20
Constitution of Illinois, Sec. 1, Art. 9	44
Federal Judicial Code, Sec. 266	46
Illinois Statutes (Cahill, 1921) Sec. 115, Chap. 120	43

Sections of Compiled Statutes of Nebraska 1922.

1070	73
5898	4
5820	4
5904	4
5905	5
5823	12
5839	5
5840	5
5847	8

Page

5842 8
5844 8
5848 8
5848 9
5849 9
5850 9
5861 Par. 10 13
5882 27
5901 ..... 9-10, 23
5979 13
6010 11
6002 12-13
6017 11
6018 48
9127 20
9128 21
9129 21
9131 21
9132 21

Cases and Other Authorities Cited.

Allen v. Pullman's Palace Car Co., 139 U. S. 658..38, 40, 41, 51
Arkansas Building & Loan Assn. v. Madden, 175 U. S. 269 51

Beadle v. Sanders, 104 Neb. 427 18
Boise Artesian Water Co. v. Boise City, 213 U. S. 276 40
Burrill v. Locomobile Co., 258 U. S. 34 45

Cooley on Taxation (3rd Ed. 751 14
Chicago, Rock Island & Pacific Ry. Co. v. State (unreported) 19, 20, 24-26, 45, 53
Chicago & N. W. R. Co. v. City of Albion, (Neb.) 192 N. W. Rep. 233 28
Chapel v. Franklin Co., 58 Neb. 544 17

INDEX—(Continued).

Page

Cruickshank v. Bidwell, 176 U. S. 73..... 38
Cummings v. Bank, 101 U. S. 153..... 48
Dawson v. Kentucky Dist. Co. 255, U. S. 288..... 47
Dixon County v. Halstead, 23 Neb. 697..... 15
Dodd v. Hartford, 26 Conn. 239..... 32
Dows v. City of Chicago, 11 Wall, 108.....
.....29, 32, 33, 35, 37, 41
Ex Parte McNiel, 13 Wall. 236..... 41
Greene v. Louisville & Interurban Ry. Co. 244 U. S. 499.48, 51
Green v. Munford, 5 R. I. 478..... 32
Hacker v. Howe, 72 Neb. 385..... 16
Hagar v. Reclamation District, 111 U. S. 701..... 16
Hahn System v. Stroud, (Neb.) 190 N. W. Rep. 572.... 48
Hannewinkle v. Georgetown, 15 Wall. 547.....30, 32, 36
Hutchinson v. City of Omaha, 52 Neb. 345..... 18
Indiana Mfg. Co. v. Koehne, 188 U. S. 681.....38, 41
Johnson v. Wells Fargo & Co., 239 U. S. 234..... 51
Keokuk & Hamilton Bridge Co. v. Salm, 258 U. S. 122.. 41, 45
Lincoln Telephone & Telegraph Co. v. Johnson Co., 102
Neb. 254 27
Long v. Norman, 289 Fed. 5..... 46
McCague Inv. Co. v. Metropolitan W. D. 101 Neb, 820.. 18
McDougal v. Mudge, 233 Fed. 235..... 46
McGee v. State, 32 Neb. 149..... 17, 22
McLaughlin v. St. Louis R. Co., 232 Fed. 579..... 45
Messert v. Supervisors of Columbia, 50 Barb. 190..... 32
Mich. Central R. R. Co. v. Carr, 303 Ill. 354..... 44
Missouri P. R. Co. v. Conway, 280 Fed. 401..... 46
Milwaukee v. Koeffler, 116 U. S. 219..... 36, 45
Moores v. Smedley, 6 Johnson's Chancery Reports 28...30, 32

Page

Nickoll v. United States, 7 Wall, 122..... 33

Payne v. Hook, 7 Wall, 425..... 41

Pittsburg etc. Railway v. Board of Public Works, 172 U. S. 32.....34, 35, 38, 51

Pullman Co. v. Tamble, 173 Fed. 200..... 45

Raymond v. Chicago Traction Co., 207 U. S. 20..... 48, 51

Reynes v. Dumont, 130 U. S. 354..... 40

Rule No. 1 of Sup. Ct. of Neb..... 73

Sanitary Dist. v. Young, 285 Ill. 351..... 44

Shelton v. Platt, 139 U. S. 591.....36, 37, 38, 41

Singer Sewing Machine Co. v. Benedict, 229 U. S. 481..39, 51

Sioux City Bridge Co. v. Dakota County, 105 Neb. 834.. 27

Sioux City & Pacific R. Co. v. Washington County, 3 Neb. 30 .....16-21, 22

Sioux City Bridge Co. v. Dakota County, U. S. Sup. Ct. Advance Opinions L. Ed. No. 7, 220, decided January 2, 1923 28

Slaughter v. City of Louisville, 89 Ky. 112..... 14

Smythe v. Ames, 169 U. S. 466..... 41, 49

State v. Savage, 65 Neb. 714.....15, 16

State v. State Board of E. & A., 81 Neb. 139.....15, 16, 22

State Railroad Tax Cases, 92 U. S. 575.....31, 36, 41

State Ex. Rel Goff v. County Board Dodge County, 20 Neb. 595 14

The Burton Stock Car Co. v. Traeger 187, Ill. 9..... 45

The Peoples Gas Light Co. v. Stuckart, 286, Ill. 164..... 44

The Public Life Ins. Co. v. Pollack 75, Ill. 292..... 44

The People v. Millard, 307 Ill. 556..... 45

Page

Union Pacific Railway Co. v. Cheyenne, 113 U. S. 516...36, 47

Union Pacific R. R. Co v. Board of Commissioners Weld Co., 247 U. S. 282..... 50

United States Mining Co. v. Lawson, 134 Fed. 769..... 41

Wells, F. & Co. v. Nevada, 248 U. S. 165..... 42

Whedon v. Lancaster Co., 76 Neb. 761..... 17

Whitehead v. Shattuck, 138 U. S. 146..... 41

Wilson Et. Al. v. Ill. S. Ry. Co., U. S. S. C. Ad. Op. L. Ed. Nos. 6 & 7 p. 225..... 42

Western Union Tel. Co. v. Douglas Co., 76 Neb. 666.... 48